# STATE BOARD OF EQUALIZATION
# STAFF LEGISLATIVE BILL ANALYSIS

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| Date Introduced: | **2/24/06** | Bill No: | **AB 3039** |
| Tax: | **Property** | Author: | **Houston** |
| Related Bills: | **AB 1798 (Berg)**<br>**AB 2735 (Nava)**<br>**SB 1607 (Machado)** | | |

**BILL SUMMARY**

This bill would, among other things, allow any person whose home was damaged or destroyed by a natural disaster in a designated area declared by the Governor to be in a state of emergency to retain the homeowners' exemption on their property.

### Current Law

Article XIII, Section 3(k) of the California Constitution exempts from property tax the first $7,000 of the full value of a dwelling when occupied by an owner as his principal residence. This exemption is commonly referred to as the "homeowners' exemption."

Section 218 of the Revenue and Taxation Code[1] details the qualifications for the homeowners' exemption authorized by the constitution. Eligibility is generally continuous once granted. However, if a property is no longer owner-occupied, is vacant or is under construction on the lien date (January 1), the property is not eligible for the exemption for the upcoming tax year. Consequently, a home that previously received a homeowners' exemption, but has suffered total destruction in a disaster as of January 1, is not eligible for the homeowners' exemption for the upcoming tax year.

Special purpose legislation has been enacted in recent years to provide that dwellings destroyed in certain Governor declared disasters will not be disqualified as a "dwelling" or be denied the homeowners' exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

### Proposed Law

This bill would add subdivision (i) to Section 218 to provide that a dwelling that qualified for the homeowners' exemption and that was damaged or destroyed by a natural disaster in a designated area declared by the Governor to be in a state of emergency during a specified period of time, shall not be disqualified as a "dwelling" or be denied the exemption solely on the basis that, as a result of the disaster, the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

In addition, this bill would add Chapter 7 "Emergency Property Tax Reassessment Reimbursement" to Part 1 of Division 1 of the Revenue and Taxation Code to provide general purpose provisions related to the reimbursement procedure followed by county auditor, the State Controller, and the Department of Finance to recoup property tax losses due to the disaster. This provision is not addressed in this analysis since it falls outside the purview of the Board of Equalization.

[1] All section references are to the Revenue and Taxation Code unless otherwise noted.

## Comments

1. **Sponsor and Purpose.** The author is sponsoring this measure to eliminate the need for special purpose legislation each time there is a natural disaster.

2. **Governor's Signing Message on Special Purpose Legislation.** The Governor included a signing message in last year's AB 18 (Ch. 624, Stats. 2005) requesting that standard purpose legislation be enacted to avoid the need to introduce special purpose legislation each year. The table below lists the special purpose legislation enacted in recent years.

| *Disaster* | **Year** | **Legislation** |
|---|---|---|
| Shasta County wildfires | 2005 | Stats. 2005, Ch. 624 (AB 18) |
| Southern California storms (Kern, Los Angeles, Santa Barbara and Ventura Counties) | 2005 | Stats. 2005, Ch. 623 (AB 164) |
| Southern California storms (Orange, Riverside, San Bernardino, and San Diego Counties) | 2005 | Stats. 2005, Ch. 622 (SB 457) |
| San Joaquin levee break | 2004 | Stats. 2004, Ch. 792 (SB 1147) |
| San Simeon earthquake | 2003 | Stats. 2004, Ch. 792 (SB 1147) |
| Southern California wildfires | 2003 | Stats. 2004, Ch. 792 (SB 1147) |
| Oakland/Berkeley Hills fire | 1992 | Stats. 1992, Ch.1180 (SB 1639) |

3. **Partial Damage.** Board staff has opined that a temporary absence from a dwelling because of a natural disaster, such as a flood or fire, will not result in the loss of the homeowners' exemption for those properties temporarily vacated for repairs. (See Letter To Assessors 82/50, Question G16) However, when a dwelling has been totally destroyed, staff has opined that because no dwelling exists there is no occupancy or possibility of occupancy on the lien date and the property would not be eligible for the exemption even if the property was under construction. (See Property Tax Annotation 505.0019 "Homeowners' Exemption – Disaster Impact") Referenced documents available at www.boe.ca.gov select "Property Taxes." Therefore, under existing practices, homes that are only damaged, as opposed to completely destroyed, are still eligible for the exemption and not included in any revenue impact estimate.

4. **Related Bills.** SB 1607 (Machado) contains a Board-sponsored provision that also proposes to amend Section 218 and add Section 218.05 to make these provisions standard for all Governor declared disasters without the need for special purpose legislation. AB 1798 (Berg) and AB 2735 (Nava) provide special purpose legislation related to this issue for disasters occurring in 2005 and 2006. In addition, AB 1922 (Waters) and AB 2738 (Wyland) propose unrelated amendments to Section 218 to increase the amount of the homeowners' exemption.

## COST ESTIMATE

The Board would incur some minor absorbable costs in informing and advising county assessors, the public, and staff of the law changes and addressing ongoing implementation issues and questions. These costs are estimated to be under $10,000.

## REVENUE ESTIMATE

***The revenue estimate is limited to the homeowners' exemption portion of the bill.***

This bill does not have a direct revenue impact. The revenue impact of this bill over time will depend on the number and extent of disasters in the future. To provide a frame of reference, in the last three years, the revenue impact related to extending the homeowners' exemption for various disasters has been less than $10,000 annually.



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